

AMENDED IN ASSEMBLY MAY 13, 2002

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2205

Introduced by Assembly Member Koretz

(~~Coauthor: Assembly Member Havice~~)

(Coauthors: Assembly Members Havice, Longville, and Vargas)

(Coauthors: Senators Ortiz and Soto)

February 20, 2002

An act to amend, repeal, and add Section 30474 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2205, as amended, Koretz. Tobacco products: prevention of sales of untaxed cigarettes: multiagency task force.

The existing Cigarette and Tobacco Products Tax Law imposes a specified tax on the distribution of cigarettes. Existing law also imposes a penalty of \$100 for each carton of 200 cigarettes, or portion thereof, upon any person who knowingly possesses, keeps, stores, or retains for the purpose of sale, or sells, or offers to sell, any package of cigarettes to which there is not affixed a stamp or meter impression. Existing law requires, with regard to the \$100 penalty for the distribution of a carton of blackmarket cigarettes, that the court transmit 50% of the penalty assessed to the local prosecuting jurisdiction and 50% of the penalty assessed to the State Board of Equalization for transmittal to the Treasurer for deposit in the General Fund.

This bill would, for the period beginning on January 1, 2003, and ending on January 1, 2006, increase the penalty for the distribution of blackmarket cigarettes to \$200 per carton, and would provide for the additional \$100 penalty to be deposited in the Unlawful Sales Reduction Fund, which the bill would create, for appropriation by the Legislature to the Office of Criminal Justice Planning to be allocated for the funding of a competitive grant program, to be established by the Legislature, to enable grantee cities to establish a multiagency task force for the purpose of significantly reducing the sales of blackmarket cigarettes and creating a deterrent to those sales, through the focused investigation and prosecution of sales of blackmarket cigarettes and other associated offenses and crimes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 30474 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 30474. (a) This section shall be known as and may be cited
- 4 as the Black Market Cigarette and Street Corruption Prevention
- 5 Act.
- 6 (b) The Legislature finds that the sale of blackmarket, untaxed
- 7 cigarettes has resulted in the loss of hundreds of millions of dollars
- 8 in revenue to the state, robbing state health care and programs
- 9 designed to help children.
- 10 (c) It is the intent of the Legislature, by enacting the act adding
- 11 this subdivision, to provide resources to prosecutors and local law
- 12 enforcement personnel, and to enable cities to develop a
- 13 multiagency task force, for the purpose of significantly reducing
- 14 the sales of blackmarket cigarettes and creating a deterrent to those
- 15 sales through the focused investigation and prosecution of sales of
- 16 blackmarket cigarettes, and other associated offenses and related
- 17 crimes.
- 18 (d) Any person who knowingly possesses, or keeps, stores, or
- 19 retains for the purpose of sale, or sells or offers to sell, any package
- 20 of cigarettes to which there is not affixed the stamp or meter
- 21 impression required to be affixed under this part, when those
- 22 cigarettes have been obtained from any source whatever, is guilty
- 23 of a misdemeanor and shall for each offense be fined not more than



1 one thousand dollars (\$1,000), or be imprisoned for not exceeding
2 one year in a county jail, or be subject to both fine and
3 imprisonment, in the discretion of the court. In addition to the fine
4 or sentence, or both, each person convicted under this section shall
5 pay two hundred dollars (\$200) for each carton of 200 cigarettes,
6 or portion thereof, knowingly possessed, or kept, stored, or
7 retained for the purpose of sale, or sold or offered for sale in
8 violation of this section, as determined by the court. The court shall
9 direct that 50 percent of the first one hundred dollars (\$100) of the
10 penalty assessed be transmitted to the local prosecuting
11 jurisdiction, to be allocated for costs of prosecution, and 50 percent
12 of the first one hundred dollars (\$100) of the penalty assessed be
13 transmitted to the State Board of Equalization. The court shall
14 direct that the second one hundred dollars (\$100) of the penalty
15 assessed shall be transmitted to the Controller for deposit in the
16 Unlawful Sales Reduction Fund, which is hereby created. Upon
17 appropriation by the Legislature, the moneys in the fund shall be
18 allocated to the Office of Criminal Justice Planning for the funding
19 of a competitive grant program to be established by the Legislature
20 to enable grantee cities to establish a multiagency task force, the
21 composition of which shall include prosecutors and local law
22 enforcement personnel, for the purpose of significantly reducing
23 the sales of blackmarket cigarettes, and creating a deterrent to
24 those sales through the focused investigation and prosecution of
25 sales of blackmarket cigarettes and other associated offenses and
26 related crimes. No more than 5 percent of the amount transmitted
27 from the second one hundred dollars (\$100) of the penalty assessed
28 may be retained to fund the costs of administering the competitive
29 grant program.

30 (e) The Office of Criminal Justice Planning shall consult with
31 the State Board of Equalization in the administration of the
32 competitive grant program.

33 ~~(f) This section shall be operative for the period beginning on~~
34 ~~January 1, 2003, and ending on January 1, 2006, and as of that date~~
35 ~~this section shall be repealed unless a later enacted statute extends~~
36 ~~the operation of this section.~~

37 (f) (1) *The two hundred dollar (\$200) penalty for each carton*
38 *of 200 cigarettes knowingly possessed, or kept, stored, or retained*
39 *for the purpose of sale, or sold, or offered for sale in violation of*
40 *this section, as authorized under subdivision (d), shall only be*

1 *imposed for the period beginning on January 1, 2003, and ending*
2 *on January 1, 2006.*

3 *(2) This section shall remain in effect until December 1, 2006,*
4 *or until all the moneys remaining in the Unlawful Sales Reduction*
5 *Fund on January 1, 2006, have been appropriated by the*
6 *Legislature for allocation to the Office of Criminal Justice for*
7 *funding the competitive grant program established under this*
8 *section, whichever occurs later.*

9 SEC. 2. Section 30474 is added to the Revenue and Taxation
10 Code, to read:

11 30474. (a) Any person who knowingly possesses, or keeps,
12 stores, or retains for the purpose of sale, or sells or offers to sell,
13 any package of cigarettes to which there is not affixed the stamp
14 or meter impression required to be affixed under this part, when
15 those cigarettes have been obtained from any source whatever, is
16 guilty of a misdemeanor and shall for each offense be fined not
17 more than one thousand dollars (\$1,000), or be imprisoned for not
18 exceeding one year in a county jail, or be subject to both fine and
19 imprisonment, in the discretion of the court. In addition to the fine
20 or sentence, or both, each person convicted under this section shall
21 pay one hundred dollars (\$100) for each carton of 200 cigarettes,
22 or portion thereof, knowingly possessed, or kept, stored, or
23 retained for the purpose of sale, or sold or offered for sale in
24 violation of this section, as determined by the court. The court shall
25 direct that 50 percent of the penalty assessed be transmitted to the
26 local prosecuting jurisdiction, to be allocated for costs of
27 prosecution, and 50 percent of the penalty assessed be transmitted
28 to the State Board of Equalization.

29 (b) This section shall become operative on January 1, 2006.

